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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Developing a Unified Inter-carrier  
Compensation Regime

CC Docket No. 01-92

COMMENTS OF THE  
ALLIANCE OF INCUMBENT RURAL INDEPENDENT TELEPHONE COMPANIES  
AND THE  
INDEPENDENT ALLIANCE

Pursuant to the Commission's *Public Notice*, DA 02-1740, released July 18, 2002, the Alliance of Incumbent Rural Independent Telephone Companies and the Independent Alliance (to be referred to collectively as the "Rural Companies") respectfully submit these Comments. By the *Public Notice*, the Commission has asked for comment regarding a petition filed by Sprint Corporation, on behalf of its wireless division, ("Sprint Spectrum") ostensibly seeking a declaratory ruling regarding what Sprint Spectrum describes as "routing and rating of traffic by ILECs."<sup>1</sup> The Sprint Petition, however, is hardly a simple declaratory ruling request limited to the affirmation of its rights to utilize network services provided by BellSouth or other carriers.

I. Examination of the Sprint Petition and Existing "Indirect" Interconnection Arrangements Demonstrate an Inequitable Burden On Rural Companies That Should Be Corrected and Not Overlooked.

Whether purposeful or not, the ramifications of a grant of the Sprint Petition would be far reaching, disruptive of established interconnection arrangements, and wrongly preemptive of the rights of both State regulators and local exchange carriers ("LECs") to determine the terms and conditions pursuant to which LECs provide local exchange services. The Sprint Petition is premised on an assumption set which could lead to an illogical outcome if it were to be generally

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<sup>1</sup> Sprint Petition for Declaratory Ruling, In the Matter of Obligation of Incumbent LECs to Load Numbering Resources Lawfully Acquired and to Honor Routing and Rating Points Designated by Interconnecting Carriers, filed May 9, 2002 ("Sprint Petition").

accepted in the absence of a careful and specific examination warranted by this matter.<sup>2</sup>

Essentially, Sprint seeks the Commission's help to enable it to achieve several inappropriate objectives:

- 1) The Sprint Petition could be construed as seeking the Commission's help in establishing interconnection with the Rural Companies through another company's tandem (*e.g.*, BellSouth) without any responsibility for the charges of transporting and terminating traffic on the Rural Companies' networks or beyond their networks;
- 2) Sprint apparently seeks the Commission's help to require Rural Companies to incur costs to transport and switch traffic destined to interconnect to the Sprint network at a point outside of the geographic scope of the networks of the Rural Companies; and
- 3) Sprint seeks a Commission determination that would apparently force the Rural Companies to include calls directed to the Sprint network as local exchange calls (*i.e.*, toll-free) irrespective of whether the terminating point of the call is within the Rural Company local calling scope.

Grant of the Sprint Petition could be construed to mean that a rural LEC offering local exchange service in a very limited geographic area in rural Pennsylvania could be required to include calls to a Sprint customer in New York within the LEC's local exchange service calling scope. And, the Rural Company would be responsible for the costs of transporting and terminating the call to Sprint in New York regardless of the fact that the only network it operates is in a small area in rural Pennsylvania. Accordingly, the Rural Companies' interest in submitting comments is to ensure that the Sprint Petition and the positions of BellSouth in response do not distort the controlling requirements or lead to the imposition of unwarranted requirements or arrangements on the Rural Companies,

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<sup>2</sup> The Rural Companies have previously addressed, in earlier Reply Comments in this docket, some of the same issues as those apparently presented by the Sprint Petition and BellSouth's positions. *See* Reply Comments of the Alliance of Incumbent Rural Independent Telephone Companies and the Independent Alliance, filed November 5, 2001, in the docket captioned above. ("Rural Companies' Reply Comments"). In addition to comments about potential future changes in intercarrier compensation, the Rural Companies' Reply Comments also addressed other commenting parties' attempts to distort the meaning and application of the existing interconnection requirements. These latter issues and points are directly applicable to the set of issues here. *See* Rural Companies' Reply Comments at pp. 5-11.

The Rural Companies do not take issue with the right of Sprint to seek and utilize interconnection services from BellSouth or any other carrier or to use its own network for interconnection. As discussed below, the Rural Companies are aware that Sprint and other carriers have long utilized the tandem and transport facilities of BellSouth and other carriers to deliver and pick up traffic to and from the networks of the Rural Companies. Under these existing circumstances, where Sprint does not establish direct interconnection terms and conditions with the Rural Company, the Rural Company holds the carrier that delivers the traffic responsible for payment of the appropriate charges for utilization of the Rural Company network. In other words, where Sprint looks to BellSouth to pick up and deliver traffic to and from the Rural Company network, it is BellSouth that must compensate the Rural Company for the transport and termination on the Rural Company network

Where any such “indirect” interconnection arrangement exists between Sprint and a Rural Company, the Rural Company has no opportunity to negotiate terms and conditions of interconnection on its network. Accordingly, no such “indirect” arrangement can be permitted either to impose any cost on the Rural Company where the terminating point of the call is outside of the Rural Company local calling scope. The facts and circumstances associated with the Sprint Petition are related to a bilateral arrangement that Sprint Spectrum has with another carrier ( BellSouth) and not with any Rural Company. Accordingly, to the extent that the Commission considers the Sprint Petition, the Rural Companies respectfully submit that the ruling should not affect or limit the rights of Rural Companies regarding the negotiation of interconnection arrangements. Moreover, in any ruling on this matter, the Rural Companies further request that the Commission clarify that where bilateral interconnection agreements are utilized to provide interconnection to third parties, that party directly interconnecting to the third party cannot escape its responsibility for compensating the third party for transport and

termination services under the existing connecting carrier arrangements.’

- II. An incumbent LEC like BellSouth has no right to establish or impose interconnection or business arrangements on behalf of other LECs such as the Rural Companies.

The Sprint Petition may be falsely premised on the theory that some form of “transit” interconnection arrangement is required of BellSouth, or exists automatically, with respect to third party LECs.<sup>4</sup> The Commission’s interconnection rules do not address so-called transit arrangements for local interconnection.’ Regardless, BellSouth has no explicit right, and is not authorized by other LECs, such as the Rural Companies, to act as an “agent” for the Rural Companies when BellSouth negotiates and enters into a bilateral interconnection agreement with a CMRS licensee or competitive local exchange carrier.<sup>6</sup> To the extent that some carriers participate in explicit three party network arrangements, they do so under voluntary arrangements which, if established properly, require that contractual agreements be in place that address the rights and responsibilities of all carriers involved.’

As discussed above, the circumstances described by Sprint Spectrum are confusing with respect to what relevance, if any, its dispute with BellSouth (about so-called transit arrangements) may have with respect to other carriers with which BellSouth and Sprint Spectrum have no specific arrangement or agreement; *e.g.*, the Rural Companies. Nevertheless, the Rural Companies are concerned about potential improper implications. Therefore, it is

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<sup>3</sup> Many Rural Companies are prepared to provide the Commission with a history of existing situations where a large LEC enters into a bilateral agreement with a carrier (*e.g.*, Sprint), arbitrarily utilizes its existing network interconnection to provide that carrier with interconnection to the Rural Company network, and then disclaims any responsibility for payment.

<sup>4</sup> See Rural Companies’ Reply Comments at 6.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 6-7.

<sup>7</sup> *Id.* at 7-8

instructive here for the Rural Companies to reiterate, in the context of the Sprint Petition, the specific conclusions which must be drawn with respect to the Rural Companies as the Commission examines these issues.’

First, a LEC has no established local interconnection requirements (*i.e.*, transport, switching, routing, delivery of traffic) with respect to transport and network functions beyond its own LEC network -- its interconnection obligations are confined to its own LEC network and service area.” If a carrier like Sprint Spectrum designs its network and services in such a manner that traffic must be routed to geographic points far from the actual geographic area in which telecommunications services are provided, or far from the local area within which the calls take place, the potential originating LEC is not responsible for the transport associated with these calls. Most of the Rural Companies do not have facilities beyond their local service areas, therefore, they offer and provision telecommunications that must be transported to distant locations through the access services the LECs offer and provide to interexchange carriers.

Similarly, in the absence of a direct interconnection or some other explicit network arrangement with another carrier, many LECs provision so-called “indirect interconnection” through their general offering of access services to interexchange carriers.” These arrangements fully satisfy controlling requirements of “indirect interconnection.”” The Sprint Petition should

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<sup>8</sup> See Rural Companies’ Reply Comments at 8-11.

<sup>9</sup> *Id.* at 9 and note 15

<sup>10</sup> See, *e.g.*, Sprint Petition at 15 and 16.

<sup>11</sup> Section 251(a) of the Act identifies the general duty of carriers to interconnect directly and indirectly with other carriers via the public switched network and to use equipment and technical approaches that are compatible with all other network participants. See 47 C.F.R. § 51.100. This subsection of the Act and the Commission’s implementing rules do not establish or require any specific standards, hierarchical network arrangements, business relationships, compensation arrangements, or service obligations. This subsection does not address the manner in which any carrier provides services to its own end users or the manner in which carriers

(continued...)

not be construed to require some novel form of indirect interconnection that simply does not exist

Furthermore, one LEC should not be forced to obtain the services of another LEC for the transport of traffic beyond the that LEC's network responsibility," and a one LEC cannot, in a competitive world, be forced to sublet, or to rely on, another carrier for its arrangement with third party carriers, particularly when that other carrier has proven itself to be unreliable, untrustworthy, or a potential competitor."

With this mind, the Commission should reject any suggestion or conclusion in the context of its evaluation of the Sprint Petition that may be construed to violate these common

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<sup>11</sup>(...continued)  
provision those end user services

<sup>12</sup> In a competitive world, one competitor cannot be forced to rely on another carrier. There has been no proceeding that concludes that it is in the public interest for a large LEC such as a Bell Company, in a competitive world, to be chosen as the mandatory intermediary between all other competing carriers. A carrier situated between all other competitors possesses a market dominance that favors its competitive position. It controls the traffic switched and delivered to all other carriers. It is the only one that can directly identify and measure traffic and manage the switching and transport of that traffic. The subtending carriers are powerless to manage for themselves the traffic that the intermediary delivers to their networks.

<sup>13</sup> Competition would not be possible if a large carrier could impose its will on a smaller carrier, or if two carriers were to enter into a bilateral interconnection agreement and proceed to impose their arrangement on a third carrier. A chilling effect will overhang the promotion of competition if a framework develops under which one large LEC (or combinations of interconnecting carriers) are allowed to situate themselves between all other competitors. However, this is exactly the sequence of unsupervised events over the last few years in the industry. The actions and attitudes of most of the largest incumbent LECs are of grave concern to the Rural Companies because the Rural Companies have become the victims of: (1) unauthorized traffic by virtue of the large incumbent LEC's abuse of existing connecting carrier arrangements; (2) fraud; (3) the resulting inability to identify, bill, and/or collect for traffic delivered to their network by large LECs; (4) lost compensation; (5) and the burdens associated with pursuing disputes with the large LECs over their unauthorized actions. Many of the Rural Companies have lodged protests against Bell Companies about the abuse of existing connecting arrangements and unauthorized actions, and have put these large LECs on notice that the large LECs continue to be responsible for the existing arrangements and the consequences of any abuse of those arrangements,

sense principles,

111. Contrary to Sprint Spectrum's statements, LECs do not routinely rely, and are not required to rely, on the rate center and routing points information that other carriers associate with telephone numbers as the sole means to design or determine the scope of their local exchange carrier services.

The Sprint Petition also appears to be premised on a false assumption regarding the significance, if any, of rating and routing information associated with NXX codes as this information relates to a LEC's provisioning and design of access and local calling scope services." The fact is that many LECs do not need or use rating and routing information in the design of, and this information is not relevant to, their LEC local calling scope area services. Moreover, carriers cannot be forced to rely on the rate center and routing point information of other carriers because this information is not supervised and is arbitrary in many cases." Finally, the Sprint Petition is misleading because there exists no rule or regulatory requirement for carriers to rely on routing and rate points in their design of their own, intrastate, local calling scope area services."

Many LECs offer and design local calling scope area services on a geographical basis for their LEC customers through the establishment of route-by-route and exchange-by-exchange calling services (*e.g.*, extended area service routes). Where these services involve traffic with other carriers, these arrangements are established on a case-by-case basis with individual connecting carrier arrangements, including the establishment of trunking and switching

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<sup>14</sup> The data that is displayed in the industry database are simply two points as specified by V & H coordinates. There is no specific or guaranteed significance to these points with respect to the specific geographic location of users relative to the assigned telephone numbers,

<sup>15</sup> For a more complete discussion of this issue, **see** Reply Comments of the Small Company Group of New York filed on November 5, 2001, in the earlier round of comments in this docket.

<sup>16</sup> Even Sprint Spectrum admits that the use of routing and rate points is only a practice. Sprint Petition at 4, n. 5.

arrangements for the routing and completion of calls. These local calling scope arrangements, where implemented, do not necessarily conform to the routing or rating information that is included in the database referenced by Sprint Spectrum."

Even where so-called routing and rating information may correspond to the design and geographic definitions of local calling services of a LEC, it is nevertheless impossible for any LEC to begin to provide a local calling scope service with another carrier unless and until that carrier establishes a connecting carrier relationship and the network facilities are addressed and implemented consistent with the controlling law and regulatory policies. In other words, just because a carrier may obtain a NPA-NXX code and associate that code with some geographic area, a connecting carrier arrangement with other LECs is not created automatically.

Moreover, most LECs offer basic local exchange services based on the originating and terminating point of the call; *i.e.*, calls that originate and terminate within a specific local calling geographic area. Mobile services do not logically fit into this definition because the mobile user's location is unknown to the originating carrier; the mobile user could be located virtually anywhere in the country, and the telephone number assigned to the mobile user has little, if any,

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<sup>17</sup> Sprint Petition at 3. As Sprint Spectrum notes, the concepts of routing and rating points were established in the 1940's before mobile services, as we know them today, even existed. *Id.* at n. 4. The reality is, at that time, the V & H coordinates of rate center points represented geographically significant service areas and were used to calculate mileage for long distance calls to and from those points. Independent LECs did not rely on this information for their local exchange services. It was of consequence only to the rating of long distance calls. In recent times, some LECs have apparently adopted administrative practices and billing systems that utilize this information for some local exchange service purpose. But many LECs do not routinely need or use this information. The Central Office Code Assignment Guidelines recognize that some carriers do, and some carriers do not, rely on this information for billing purposes. *See* Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008, published by the Alliance for Telecommunications Industry Solutions, dated April 22, 2002 at 5. Regardless, the LERG in which carriers display rate center points and routing points does not establish requirements for other carriers; it is simply a tool that carriers are free to use.



to do with the actual location **of** the mobile user.<sup>18</sup> CMRS licensees do not confine the use of their services to the geographic rate center area associated with the assigned telephone number. Accordingly, the Sprint Petition is misleading when it states that Sprint Spectrum does not use “virtual” NXX codes defined as codes that “correspond with a particular geographic area that are assigned to a customer located in a different geographic area.””) Sprint Spectrum fails to recognize that it does not confine the use of those codes to mobile customers located in the specific geographic rate center area, and in fact, it is very likely that its mobile customer will be located in a different geographic area than that which is related to the code. At any point in time, it takes only common sense to recognize that it is a very good bet that a large portion of the mobile customers making or receiving calls while located in the District of Columbia will be assigned codes (*i.e.*, telephone numbers) for which the corresponding rate center is not within the District of Columbia. Therefore, Sprint Spectrum’s statement in its Petition that “[t]here is

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<sup>18</sup> In its interconnection decision, the Commission decided that the location of the mobile user, as the means *to* determine whether the jurisdiction of a call is intra-MTA or inter-MTA, would be the cell site serving the mobile user at the beginning of the call. *First Report and Order*, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; and Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket Nos. 96-98 and 95-185, 11 FCC Rcd. 15499, 160 **15** (para. 1043)(1996)(“*Interconnection Order*”).

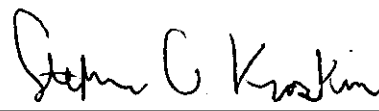
<sup>19</sup> Sprint Petition at 13

nothing ‘virtual’ about Sprint Spectrum’s provision of service” is wrong based on its own definition.””

#### IV. Conclusion

In addressing the Sprint Petition, the Commission should reject those comments and suggestions that would lead to the imposition of arrangements for which there are no requirements or would allow large LECs to impose interconnection arrangements on LECs such as the Rural Companies in denial of these LECs’ rights. In reviewing the issues, the Commission should be guided by the principles set forth in these Comments related to the issues potentially presented by the Sprint Petition

Respectfully submitted,  
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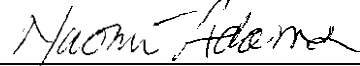
August 8, 2002

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<sup>20</sup> *Id.* Sprint Spectrum also misleads when it suggests that all intraMTA calls are subject to the reciprocal compensation framework. Sprint Petition at 14. The interconnection provisions of the Act preserved the distinction between charges of transport and termination under Section 251(b)(5) of the Act and interstate and intrastate access charges for the termination of interexchange carriers’ long distance traffic. *Interconnection Order* at 16013 (para. 1033). The Commission has previously confirmed that intraMTA traffic “falls under our reciprocal compensation rules if carried by the incumbent LEC, and under our access charge rules if carried by an interexchange carrier.” *Memorandum Opinion and Order*, In the Matters of TSR Wireless, LLC, et al. Complainants, v. US West Communications, Inc. et al., Defendants, released June 21, 2000, in File Nos. E-98-13, E-98-15, E-98-16, and E-98-18 at para. 31. Of course, a toll call is not originated by a LEC, it is originated by an interexchange carrier which obtains access from the LEC. The interexchange carrier is the originating carrier for an interexchange, toll call.

## CERTIFICATE OF SERVICE

I, Naomi Adams, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Reply Comments of the Alliance of Incumbent Rural Independent Telephone Companies and the Independent Alliance" was served on this 8<sup>th</sup> day of August 2002, via hand delivery or first class, U.S. Mail, postage prepaid to the following parties:

  
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